

REMARKS/ARGUMENTS

The Decision by the Board of Patent and Interferences rendered on August 25, 2008 affirmed the Examiner's final rejection of claims 10-24, 26-37, and 39-47 under 35 U.S.C. 102(b) as being anticipated by Ito U.S. Patent 5,999,126, and affirmed the Examiner's final rejection of claims 25 and 38 under 35 U.S.C. 103(a) as being unpatentable over Ito in view of Marlevi et al. U.S. Patent 5,572,221. In reply, applicant has cancelled claims 10-17 and 22-47, and has amended independent claim 18 to more precisely specify how the transmitter in applicants' claim 18 transmits targeted advertisement broadcasts to the wireless communication device at least based on the current location of the wireless communication device. The applicant has also added new claims 48-87 that specify in a similar fashion how an advertisement or notification is transmitted to one or more wireless devices.

Claim 18 as amended recites "a memory device for storing position location data from the position location system, the position location data indicating a current location of the wireless communication device; a processor for recalling the position location data from the memory device and processing the recalled position location data to determine when the current location of the wireless communication device becomes in proximity to a certain location; and a transmitter for transmitting a targeted advertisement broadcast to the wireless communication device in response to the processor determining that the current location of the wireless communication device has become in proximity to the certain location."

Support for this amendment is found in the applicant's original specification as follows. The paragraph bridging pages 3-4 says:

Another aspect of the invention relates to a system that is used with an existing wireless communication device that is capable of communicating with an existing position location system. The system includes a memory device for storing position locations of the wireless communication device and a processor for processing information from the memory device.

As described in the last paragraph on page 5 of applicant's specification: "The GPS System 12 locates and identifies a particular user." As further described at the top of FIG. 6, "the computer system is in communication with the GPS system via a communication interface." As shown in applicant's Fig. 3, the database system 56 includes "Frequent Routes", and as shown in FIG. 5, step 74 is "user travels frequent routs." As further described on page 7 in lines 6-7: "At step 74 the user travels frequent routes and these actions are stored into memory." Thus, from applicants' original drawings and specification, one of ordinary skill in the art understands that the system of applicant's FIG. 2 obtains position location data indicating the location of the wireless device from the position location system 12 of FIG. 1, and stores this position location data in the memory of FIG. 2, and the processor (CPU(s) 30 in FIG. 2) of the system recalls the position location data from the memory for processing.

Step 62 in applicant's FIG. 4 says: "USER SETS PROFILES (NOTIFY USER IF X)" and step 64 in applicant's FIG. 4 says: "USER SETS DEMOGRAPHICS (NOTIFY USER IF X, IN LOCATION Y)" These steps are described in the paragraph at the bottom of page 6 of applicant's specification as follows:

At step 62, the user sets particular profiles of interest in the selected category, such as notify the user by broadcasting to the communication device if a certain event happens. The event may be that the user is in the proximity of a store, restaurant, person, event, or other item selected by the user. At step 64, the user may set certain demographics, such as notify the user if the user is in the proximity of a store, such as within five miles, or within a certain zip code, or city, or some other geographical limitation

As further described at the end of the second paragraph on page 7 of applicant's specification:

For example, the user may select to receive advertisements from certain stores and/restaurants, or select from other categories of interest such as concerts, grocery stores, department stores, specialty stores libraries, parks etcetera so that when the handset is within a certain distance or range from the area of interest, an advertisement or message from the area of interest will be broadcast on the handset, either by voice, ring, or message on the handset screen.

Step 102 in FIG. 6 says: "BROADCAST SENT TO USER(S) BASED ON HISTORICAL DEMOGRAPHICS AND/OR LOCATION". This is described in the second full paragraph on page 9 of applicant's specification as: "In step 102 broadcasts are sent to the user based on the demographics established and analyzed." Thus, a person of ordinary skill understands that the processor for processing the recalled position location data to determine when the current location of the wireless communication device becomes in proximity to a

certain location; so that the transmitter transmits the targeted advertisement broadcast to the wireless communication device in response to the processor determining that the current location of the wireless communication device has become in proximity to the certain location.

New claim 48 is supported by the above-cited language in the second paragraph of page 7 of the applicant's specification ("The event may be that the user is in the proximity of a store, restaurant, ...") and the above-cited language at the end of the second paragraph on page 7 of applicant's specification ("For example, the user may select to receive advertisements from certain stores and/restaurants, ...").

New claim 49 is more particularly directed to "storing in a memory user selections; processing the position location data to determine when the position location data indicates that the wireless communication device becomes in proximity to a certain location and the memory contains a selection of the user of the wireless communication device indicating that the user of the wireless communication device has an interest in receiving a notification of proximity to the certain location, ..." For example, in the applicant's original figures and specification, this user selection is one of the "preselections" and this user selection is the condition "X" in steps 62 and 64 in FIG. 4.

New dependent claim 50 further defines that the position location system is the Global Positioning Satellite (GPS) system, as shown in FIG. 1 and described in applicant's specification in the sentence bridging pages 2-3.

New dependent claim 51 defines that the wireless communication device is a cell phone (10 in FIG. 1), as described in the second to the last paragraph of page 5 of applicant's specification.

New dependent claim 52 further defines the user operating the wireless communication device to select the selection of the user of the wireless communication device, for example as shown in steps 58, 60, and 62 of FIG. 4 and described in the last paragraph on page 6 of applicants' specification.

New dependent claim 53 further defines the user accessing a web server on the Internet (54 in FIG. 3) to select the selection of the user of the wireless communication device, for example as described in the fourth full paragraph of page 6 of applicant's specification and in the second paragraph of page 7 of appellant's specification..

New dependent claim 54 further defines the user operating the wireless communication device to request information based on interests not preselected or based on the user's location, and responding to the user's request by providing the user with information about interests not preselected or based on the user's location. . This is shown in step 72 of FIG. 5 and described in applicants' specification, for example, on page 7 lines 4-6.

New dependent claim 55 further defines storing the user's request in the memory, and subsequently accessing the user's requests the memory to select an advertisement sent to the

wireless communication device. This is shown in steps 80 of FIG. 5 and steps 90, 92, 94, 96, 98, 100, and 102 of FIG. 6 as described in applicant's specification on page 9 in the second full paragraph.

New dependent claim 56 further defines providing free wireless service to a first group of users having selections indicating an interest in not screening notifications, and not providing free wireless service to a second group of users having selections indicating an interest in screening notifications. This is described in the paragraph at the bottom of page 7 of applicant's specification.

New dependent claim 57 further defines storing in the memory a database of user purchases including a history of purchases made by the user of the wireless communication device, and accessing the database of user purchases to determine whether or not the history of purchases made by the user of the wireless communication device indicates that transmission of the notification of proximity to the certain location to the wireless communication device may be of interest to the user of the wireless communication device, and transmitting the notification of proximity to the certain location to the wireless communication device only when the history of purchases made by the user of the wireless communication device indicates that transmission of the notification of proximity to the certain location to the wireless communication device may be of interest to the user of the wireless communication device. The user purchases are included in the "Transactions" in the database 56 of FIG. 3 and shown in step 90 of FIG. 6 and the user purchases occur when the user acts independently in step 78 of FIG. 5. The user purchases are

stored in memory in step 80 of FIG. 5 and in the “DATABASES UPDATED” in step FIG. 6, as described in applicants’ specification in the first paragraph on page 7. Use of the history of purchases is further described in the last two lines of the first paragraph on page 8 and in lines 2-6 on page 9 and in the second full paragraph on page 9.

New dependent claim 58 further defines storing in the memory a database including a history of positions of the wireless communication device, and accessing the database to determine whether or not the history of positions of the wireless communication device indicates that transmission of the notification of proximity to the certain location to the wireless communication device may be of interest to the user of the wireless communication device, and transmitting the notification of proximity to the certain location to the wireless communication device only when the history of positions of the wireless communication device indicates that transmission of the notification of proximity to the certain location to the wireless communication device may be of interest to the user of the wireless communication device. The history of positions includes the “Frequent Routes” in the database 56 in FIG. 3 as collected in step 74 of FIG 5 and stored in memory in step 80 of FIG. 5. Routes are tracked in step 90 of FIG. 6 to update databases in step 92 of FIG. 6 to send broadcasts to users based on historical demographics and/or location in step 102 of FIG. 6, as described in the second full paragraph on page 9 of applicant’s specification.

New independent claim 59 is similar to new claim 49 except that when the processing detects proximity of a first wireless communication device to a certain location, a notification is

sent to a second wireless communication device. As further specified in new dependent claim 60, the certain location is the position of the second one of the wireless communication devices as located by the position location system. This is described in the paragraph at the bottom of page 7 of applicant's specification.

New dependent 61 is supported as described above for new claim 50.

New dependent 62 is supported as described above for new claim 51.

New independent claim 63 defines a method of operating a wireless communication system used with wireless communication devices and a position location system locating respective positions of the wireless communication devices, which includes sending notifications to each of the two wireless communication devices in response to the processing of the position location data determining that the position location data indicates that the two wireless communication devices have become in proximity to each other. This is also described in the paragraph at the bottom of page 7 of applicant's specification.

New dependent 64 is supported as described above for new claim 50.

New dependent 65 is supported as described above for new claim 51.

New dependent claim 66 is supported by the paragraph at the bottom of page 7 of applicant's specification.

New dependent claim 67 is also supported by the paragraph at the bottom of page 7 of applicant's specification.

New independent claim 68 is supported as described above for claims 49, 50, and 57.

New independent claim 69 is supported as described above for claim 58.

New dependent claim 70 is supported as described above for claim 52.

New dependent claim 71 is supported as described above for claim 53.

New dependent claim 72 is supported as described above for claim 54.

New dependent claim 73 is supported as described above for claim 55.

New dependent claim 74 is supported as described above for claim 56.

New independent claim 75 is supported as shown in FIG. 6 and as described, for example, in the second full paragraph on page 9 of applicant's specification. Step "(a) maintaining databases of selections of the users, purchases made by the users; routes followed by the users, and requests of the users" is shown in steps 90 and 92 of FIG. 6. Step "(b) analyzing information in the databases to establish historical demographics" is shown in steps 94 and 96 of FIG. 6. Step "(c) analyzing the historical demographics to establish user groups" is shown in steps 98 and 100 of FIG. 6. Step "(b) transmitting advertisements of businesses at certain locations to the wireless communication devices of the users in selected ones of the user groups, wherein each advertisement of each business at each certain location is transmitted to one of the wireless communication devices in response to the Global Positioning Satellite (GPS) system technology indicating that said one of the wireless communication devices has become in proximity to the certain location of said each business and the user of said one of the wireless communication devices is in a selected one of the user groups interested in receiving said each advertisement of said each business at said each certain location" is shown in step 102 of FIG. 6.

New independent claim 76 is supported as described above for claims 48 and 49.

New dependent claim 77 is supported as described above for claims 48 and 50.

New dependent claim 78 is supported as described above for claims 48 and 51.

New dependent claim 79 is supported as described above for claims 48 and 57..

New dependent claim 80 is supported as described above for claims 48 and 58.

New dependent claim 81 is supported as described above for claim 63.

New dependent claim 82 is supported as described above for claim 64.

New dependent claim 83 is supported as described above for claim 65.

New dependent claim 84 is supported as described above for claim 66.

New independent claim 85 is supported as described above for claim 68.

New dependent claim 86 is supported as described above for claim 69.

New independent claim 87 is supported as described above for claim 75.

Applicant respectfully submits that claim 18 has been amended to further clarify the present disclosure and so that the amended claim 18 is not anticipated or obvious from Ito, alone or in combination with Marlevi. With respect to claim 18, Ito column 10, lines 40-65 is cited for a disclosure that data signals may be provided from the PHS base station pertaining to traffic jam information or closed street information, which was considered to be a “transmitter for

transmitting targeted broadcasts to the wireless communication device at least based on the current location of the wireless communication device.” To more clearly distinguish Ito, claim 18 has been amended to recites “a memory device for storing position location data from the position location system, the position location data indicating a current location of the wireless communication device; a processor for recalling the position location data from the memory device and processing the recalled position location data to determine when the current location of the wireless communication device becomes in proximity to a certain location; and a transmitter for transmitting a targeted advertisement broadcast to the wireless communication device in response to the processor determining that the current location of the wireless communication device has become in proximity to the certain location.”

In effect, claim 18 is reciting a system that tracks the position of a wireless device with the position location system so that the processor determines when the wireless device becomes in proximity to a certain location. The transmitter transmits a targeted advertisement broadcast to the wireless communication device in response to the processor determining that the current location of the wireless communication device has become in proximity to the certain location.” In contrast, in Ito, there is no disclosure that the data signals pertaining to “traffic jam information or closed street information” are transmitted by the PHS base station to a wireless device in response to tracking of the position of a wireless device. Instead, the PHS base station transmits the local information as the local information becomes available to the PHS base station so that any and all PHS receivers within the broadcast range of the PHS base station can receive the local information as the local information becomes available to the PHS base station.

Applicant also submits that the invention of claim 18 would not have been obvious to one of ordinary skill in the relevant art from Ito alone or in combination with Marlevi. Ito appears satisfactory for its intended purpose of transmitting local information to any and all wireless devices within the broadcast range of a PHS base station. Moreover, if a particular user of a wireless device would not want to hear or view local information, a person of ordinary skill would program the wireless device to ignore broadcasts of local information based on a user selection on the wireless device.

Applicant respectfully submits that the new claims distinguish Ito alone or in combination with Marlevi for the same reasons as claim 18 as amended. Each of the new independent claims also recites a system or method in which the position of a wireless communication device is tracked using the position location system, so that a notification or advertisement is transmitted in response to the wireless communication device becoming in proximity to a certain location, as indicated by the position location data from the position location system.

In view of the above, it is respectfully submitted that the application is in condition for allowance. Reconsideration and early allowance are earnestly solicited.

Respectfully submitted,

/ *Richard C. Auchterlonie* /

Richard C. Auchterlonie, Reg. No. 30,607
NOVAK DRUCE & QUIGG, LLP
1000 Louisiana, 53rd Floor
Houston, TX 77002
713-571-3460 (telephone)
713-456-3836 (telefax)
Richard.Auchterlonie@novakdruce.com